

SCOTUS's *CASA* Decision Ends Nationwide Injunctions, Creating Uncertainty Around Enforcement of Executive and Agency Actions

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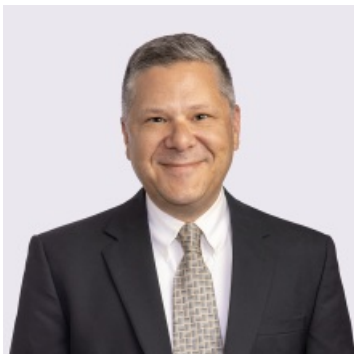
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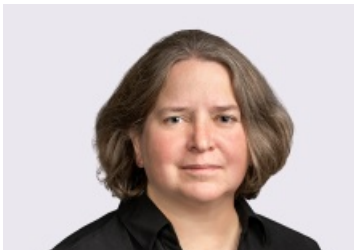


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Takeaways

- The SCOTUS opinion ends district courts' ability to issue nationwide injunctions.
- The Court did not address the underlying issue in the case involving the constitutionality of an EO limiting birthright citizenship.
- Many previous nationwide injunctions affected employers across a wide range of issues, including immigration, DEI, overtime rules, and non-competes.

Related link

- [*Trump, et al. v. CASA, Inc., et al.* \(opinion\)](#)

Article

In a 6–3 opinion, the U.S. Supreme Court partially stayed the nationwide injunctions issued by three district courts against enforcement of President Donald Trump's executive order (EO) that plaintiffs believe fundamentally changed birthright citizenship guaranteed by the U.S. Constitution. [*Trump, et al. v. CASA, Inc., et al.*](#), No. 24A884 (June 27, 2025).

The decision limits the relief afforded by the district courts in the consolidated matters to only the parties in the actions. While the Court steered clear of the underlying legality of the EO, the decision creates a future landscape of patchwork, and possibly inconsistent, enforcement related not only to birthright citizenship, but also a range of other areas impacted by executive action that have been subject to nationwide injunctions. The Court asked the lower courts to reconsider their rulings in light of its opinion.

Background

The increasing use of nationwide injunctions by federal judges in litigation against the federal government has raised significant concerns. States and advocacy and industry groups are increasingly turning to the courts in an effort to rein in what they perceive as executive overreach.

CASA arises from emergent appeals brought by the Trump Administration after three separate district courts issued nationwide injunctions surrounding enforcement of Trump's Jan. 20, 2025, EO 14160, titled "Protecting the Meaning and Value of American Citizenship." The EO provides children born in the United States will not be entitled to U.S. citizenship if their parents are in the country illegally or on a temporary basis.

On Jan. 21, 2025, three separate lawsuits were filed seeking to have the EO declared unconstitutional. The court in each case issued a nationwide injunction against enforcement of the EO. Applications by the administration seeking stays of the injunctions



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were denied by the Ninth and First Circuit Courts of Appeals.

Majority Decision

The Court's decision, authored by Justice Amy Coney Barrett, found the availability of nationwide injunctions an equitable remedy without historical precedent. Nationwide injunctions were not among the powers that traditionally existed at the country's inception or in the centuries that followed. The Court noted the concept of nationwide injunctions did not exist in jurisprudence until the 1960s, and the overwhelming majority of decisions routinely limited relief to the parties in the action. Therefore, the Court found the issuance of nationwide injunctions exceeded the authority granted to the courts by the Judiciary Act of 1789.

The Court also found the government would suffer irreparable harm due to the intrusion, by a coequal branch of government, upon its right to enforce its policies against nonparties. The opinion directs the lower courts in each of the consolidated cases to expeditiously review their decisions to ensure they are no broader than necessary to provide complete relief *to the plaintiffs* in their respective cases. EO 14160 will take effect July 27, 2025 (30 days after the date of the opinion), and government agencies can develop and issue guidance concerning implementation.

Concurrences

Justices Clarence Thomas and Neil Gorsuch concurred in the opinion to emphasize that courts must tailor remedies specific to the parties to avoid replicating the issues the Court found with nationwide injunctions. The concurrence explicitly states that the majority opinion ends the practice of district courts issuing nationwide injunctions.

Justice Thomas also joined in a concurrence by Justice Samuel Alito to note that the Court's decision does not address the issues of standing or the availability of class certification, which had been argued in the appeal. The decision instead underscores the need for "rigorous and evenhanded" enforcement of third-party standing limitations. Justice Alito urges federal courts to be vigilant against potential abuses of third-party standing and class certification as a "loophole" to the decision.

In a separate occurrence, Justice Brett Kavanaugh wrote to underscore that the decision impacts only how district courts may act with respect to challenges to governmental action. He notes that Courts of Appeals and the U.S. Supreme Court also play a role in determining the appropriateness of injunctive relief and the underlying government action. *CASA* does not change this rubric. Determining a nationally uniform interim legal status is a function appropriately within the Supreme Court's jurisdiction, such as with the Court's decisions related to the Clean Power Plan, Title IX regulations, and mifepristone rules.

Dissent

Justice Sonia Sotomayor authored a dissent joined by Justices Elena Kagan and Ketanji Brown Jackson. Justice Sotomayor focused on the fundamental constitutional right to citizenship largely unaddressed by the majority. The patent unconstitutionality of the EO enjoined by the district courts, she wrote, is the controlling factor in the analysis. She noted the government did not seek a complete stay of the nationwide injunctions as it would be required to establish the constitutionality of the EO. According to Justice Sotomayor, the Court's decision plays along with the government's "gamesmanship" and, in the process, disregards basic principles of equity and injunctive relief. In her view, under the Court's

decision, no constitutional right would be safe. She described a hypothetical future administration that could seek to seize firearms or ban certain religions.

Impact on Employers

By eliminating the availability of nationwide injunctions, *CASA* brings uncertainty to parties affected by a growing number of EOs and regulations issued each year by whatever administration is in power. Nationwide injunctions have been issued in a number of pending lawsuits against the federal government. The fate of these nationwide injunctions likely awaits further court action in light of *CASA*, and future challenges to regulations issued by federal agencies with oversight of employment law may require more employers to get their hands dirty.

In the past, district courts have issued nationwide injunctions as to issues related to:

- EEO-1 reporting requirements;
- Changes to eligibility for work visas and green cards;
- Changes to the Department of Labor's joint-employer rule;
- Changes to union election rules;
- COVID-19 vaccine mandates;
- Federal Trade Commission's ban on non-compete agreements;
- Updated salary thresholds for exempt workers under the Fair Labor Standards Act;
- Restrictions on restaurants ability to claim the "tip credit" for work related to tipped employment (the "80/20" Rule); and
- Gender identity protections under Title IX.

Under *CASA*, employers will likely be forced to wait for these issues to work their way to the Supreme Court or institute or join in litigation seeking to enjoin their application as applied to those individual employers. Employers may not be able to rely on advocacy groups obtaining nationwide injunctions but may have to file their own actions to enjoin specific application of executive actions to individual employers based on more individualized circumstances. Following the Court's decision, the one thing that is certain for employers is uncertainty.

Please contact a Jackson Lewis attorney with any questions.

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